

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STEPHEN YANG,

Plaintiff,

- against -

BARSTOOL SPORTS, INC.

Defendant.

Docket No. _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Stephen Yang (“Yang” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant Barstool Sports, Inc., (“Barstool” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of three copyrighted Photographs of Jonah Reider’s dorm room restaurant, owned and registered by Yang, a New York City based photojournalist. Accordingly, Yang seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or are doing business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Yang is a professional photojournalist in the business of licensing his Photographs to online, print, and television stations for a fee, having a usual place of business at 270 Empire Boulevard, #K, Brooklyn, New York 11225. Yang's Photographs have appeared in many publications around the United States.

6. Upon information and belief, Barstool is a foreign business corporation duly organized and existing under the laws of the State of New York, with a place of business at 13-15 West 27th Street, New York, New York 10001. At all times material hereto, Barstool has owned and operated a website at the URL: www.BarstoolSports.com (the "Website").

STATEMENT OF FACTS

A. Background and Plaintiff's Ownership of the Photographs

7. On or about October 7, 2015, Yang Photographed Columbia University Jonah Reider's dorm room restaurant (the "Photographs"). A true and correct copy of the Photographs are attached hereto as Exhibit A.

8. Yang is the author of the Photographs and has at all times been the sole owner of all right, title and interest in and to the Photographs, including the copyright thereto.

9. The Photographs are registered with the US Copyright Office and was given registration number VA 1-987-334.

B. Defendant's Infringing Activities

10. Upon information and belief, Barstool ran an article entitled *Columbia Kid Opens Hottest New York City Restaurant In His Dorm Room, Takes Reservation on Yelp*. See <http://www.barstoolsports.com/barstoolu/columbia-kid-opens-hottest-new-york-city-restaurant-in-his-dorm-room-takes-reservations-on-yelp/>. The article prominently featured the Photographs

on Barstool's servers. A true and correct copy of the Photographs on the Website is attached hereto as Exhibit B.

11. Barstool did not license the Photographs from Plaintiff for its Website, nor did Barstool have Plaintiff's permission or consent to publish the Photographs on its Website.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST BARSTOOL)
(17 U.S.C. §§ 106, 501)

12. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

13. Barstool infringed Plaintiff's copyright in the Photographs by reproducing and publicly displaying the Photographs on the Website. Barstool is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photographs.

14. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

15. Upon information and belief, the foregoing acts of infringement by Barstool have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

16. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

17. Defendant's conduct, described above, is causing, and unless enjoined and restrained by this Court, will continue to cause Plaintiff irreparable injury that cannot be fully compensated by or measured in money damages. Plaintiff has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Barstool be adjudged to have infringed upon Plaintiff's copyrights in the Photographs in violation of 17 U.S.C §§ 106 and 501;
2. Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photographs; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded his costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
March 1, 2017

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